REMARKS/ARGUMENTS

This paper is responsive to the Non-Final Office Action dated September 23, 2004, having a shortened statutory period expiring on December 23, 2004, wherein:

Claims 1-40 were pending in the application; and

Claims 1-40 were rejected.

Claims 1, 2, 4, 5, 7-10, 12, 13, 15-18, 20, 21, 23-26, 28, 29, 31-34, and 36-40 have been amended; no claims have been canceled, and new claims 41-45 been added by this amendment. Accordingly, claims 1-45 are currently pending in the present application.

Objections to Applicant's Specification

Applicants' specification has been amended as indicated herein to address the Examiner's objections and correct several typographical errors. Applicants respectfully submit that no new matter has been added.

Rejection of Claims under 35 U.S.C. §112

In the present Office Action, claims 4, 5, 7, 8, 12, 13, 15, 16, 20, 21, 23, 24, 28, 29, 31, 32, 36, 37, 39 and 40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. More specifically, the present Office Action states that it is unclear what is meant by "based on class of service requirements" and that nothing about "class of service requirements" has been mentioned within Applicants' specification. Applicants respectfully disagree. At page 3, lines 5-7 Applicants' specification states that,

> Some embodiments can employ metrics such as class of service, which are used to determine the allocation of resources (i.e. links, bandwidth, or the like) between source and destination nodes.

Applicants respectfully submit that at least the above-identified portion of Applicants' specification discloses "class of service" metrics and that such disclosure, coupled with Applicants' claims as originally submitted, are sufficiently definite for purposes of 35 U.S.C. §

112. Applicants have attempted to further clarify claims 4, 5, 7, 8, 12, 13, 15, 16, 20, 21, 23, 24, 28, 29, 31, 32, 36, 37, 39 and 40 in response to the Examiner's rejection.

<u>*Rejection of Claims under 35 U.S.C. §102*</u>

In the present Office Action, claims 1-40 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,444,693, issued to Arslan, et al. (hereinafter "*Arslan*"). While not conceding that the Examiner's cited reference qualifies as prior art, but instead to expedite prosecution, Applicant has elected to traverse the Examiner's rejections as follows. The following arguments are made without prejudice to Applicant's right to establish, for example in a continuing application, that one or more of the Examiner's cited references do not qualify as prior art with respect to an invention embodiment currently or subsequently claimed.

More specifically, with regard to Applicants' claim 1 as previously presented the Examiner states that *Arslan* teaches a method for restoring a path in a communication system between zones comprising:

> Establishing an inter-zone link with a first border node of a source zone (column 3 lines 21-22) with a second border node of an adjacent destination zone (column 3 lines 20-23); Interzone link in this case is referred to as links 113-3 through 113-6, which connect DACS II (first border node) of the source zone, which comprises of (DACS II 110-1 to 110-3) to DACS IV (second border node) of an adjacent destination zone, which comprises of (DACS IV 2000 109-1 to 109-6).

Applicants respectfully disagree and submit that the "network levels" of *Arslan* do not teach or suggest "zones" (e.g., a source zone or adjacent destination zone) as recited by Applicants' claim. According to the teaching of *Arslan*, a network level "includes digital cross-connect systems (DCSs) 107, 109, and 110 that switch communication signals at a particular trunk level in the transmission hierarchy, e.g. DS0, DS1 or DS3." (*Arslan*, Column 2, Lines 34-38) Consequently, the network levels of *Arslan* are defined strictly and hierarchically by the transmission level at which they operate.

By contrast, a zone, as recited in Applicants' claim 1 is described in Applicants' specification as executing "a separate copy of the topology distribution algorithm" and that nodes within a zone are typically "only required to maintain information about their own zone. There is no need for a zone's topology to be known outside that zone's boundaries, and nodes
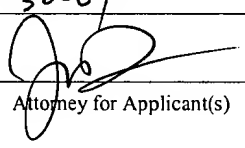
within a zone need not be aware of the network's topology external to their respective zones." (see Applicants' specification, page 4, lines 14-18) Applicants can find nothing within the Examiner's cited portions of *Arslan* to teach, show, or suggest the execution of a separate copy of a topology distribution algorithm within each network level or that topological or other information is divided or distributed among network levels. Accordingly, Applicants respectfully submit that *Arslan* fails to teach, "establishing an inter-zone link" as claimed.

Moreover, unlike the hierarchically-related "network levels" taught by *Arslan*, zones (e.g., a source zone or adjacent destination zone) as recited within Applicants' claim are not necessarily hierarchically related. For example, an exemplary source and adjacent destination zone may include zones 1 and 2 or zones 1 and 3 depicted in Applicants' Fig. 3. Applicants submit that such zones are functionally independent of one another (for instance with respect to restoring intra-zone failures) and are consequently distinguishable from the "network levels" taught by *Arslan*.

Further with regard to Applicants' claim 1 as previously presented the Examiner states that *Arslan* teaches, "identifying a pre-planned alternative route (column 11, lines 62-69). Identifying a pre-planned alternative route is stated in column 11 lines 62-66 when the search message-specifying route 2 (which being the alternative route) is updated." Applicants respectfully disagree. Within Columns 10 and 11, *Arslan* teaches a search function by which a restoration processor achieves the restoration of a circuit. *Arslan* clearly teaches within the indicated section however that the generation of search messages and the identification of nodal pathways or "routes" to be used for restoration does not occur until after the failure of a circuit is detected. Consequently, *Arslan* teaches the dynamic identification of nodal pathways and teaches directly away from the use of "pre-planned" alternative routes as claimed.

Applicants' claims 2-8 and 41 depend from independent claim 1 and are allowable for at least the reasons stated for the allowability of that claim. Applicants' claims 9, 17, 25, 33 and all remaining claims depending therefrom contain one or more limitations substantially similar to those described herein with respect to claim 1 and are accordingly allowable for at least the reasons stated for the allowability of that claim.

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

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Respectfully submitted,

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